

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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FILE: B-200765; B-200765.2

DATE: June 10, 1981

MATTER OF: Dictaphone Corporation

**DIGEST:**

RFQ for dictation equipment available under multiple-award Federal Supply Schedule which did not inform quoters of life cycle cost evaluation factors is defective and did not permit fair and equal competition.

Dictaphone Corporation (Dictaphone) protests the proposed cancellation of a purchase order issued to that firm for dictating equipment by the Veterans Administration Medical Center, Salt Lake City, Utah.

Dictaphone is a dictation equipment contractor listed on the General Services Administration multiple-award Federal Supply Schedule (FSS). Since the VA is a mandatory user of the FSS for dictating equipment, the agency, before issuing the order, requested quotations from available FSS contractors for dictating equipment. The request for quotations (RFQ) issued by the VA contained only the following statement as to the method to be employed in evaluating the lowest priced system: "Award will be based on life cycle costing."

Quotations were requested for a dictating system in accordance with VA specification X-1710. The RFQ further required each quoter to "include technical proposals with an itemized list of all system components." Dictaphone and Lanier Corporation (Lanier) submitted quotations which were based on transcribers (a component of the system) with no automatic "indexing" capabilities since the RFQ contained no such requirement.

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After receipt of quotations, the contracting officer, upon the recommendation of VA's central office, unilaterally substituted each quoter's "top of the line" transcriber with automatic indexing capabilities in place of the model contained in the quotations. This substitution was undertaken without any notice being given to the quoters. Award of the purchase order under the VA's new requirements was subsequently made to Dictaphone. The VA states:

" \* \* \* we now realize that the Contracting Officer apparently substituted a different item in the list of requirements (specifically a transcriber with indexing capabilities) after quotations were received. We would view this as a change in the Government's requirements and believe that the solicitations should have been canceled and the procurement resolicited. In fact, we are proposing at this time to cancel the purchase order and resolicit."

Dictaphone argues that substitution occurred for all vendors equally and since the procurement was a request for quotations and not a request for proposals, the contracting officer should be afforded greater latitude in his procurement actions. Thus, once the contracting officer has obtained any trade-in allowance quotations and price reductions, he should be permitted to deviate from the RFQ and simply purchase the needed item from the FSS.

We need not address these arguments since, in our view, the RFQ itself did not permit fair and equal competition and was therefore defective. In Lanier Business Products, Inc., B-200695, B-200696, March 10, 1981, 81-1 CPD 188, 60 Comp. Gen. \_\_\_\_ we stated:

"We have often pointed out the need for agencies to provide in their solicitations a clear statement of the evaluation factors to be used so that fair and intelligent competition can be achieved. See, e.g., Signatron, Inc., 54 Comp. Gen. 530 (1974), 74-2 CPD 386; Frontier Broadcasting Co. d/b/a Cable Colorvision,

53 Comp. Gen. 676 (1974), 74-1 CPD 138. Therefore, when life cycle costs are to be evaluated, the solicitation must indicate that fact. Eastman Kodak Company, B-194584, August 9, 1979, 79-2 CPD 105. In addition, we believe that in most cases the particular elements of the life cycle cost evaluation should be disclosed since they may vary from procurement to procurement and from agency to agency. See, e.g., Hasko-Air, Inc., B-192488, March 19, 1979, 79-1 CPD 190 (special inspection and repair costs were considered); Eastman Kodak Company, supra (maintenance and operating costs were considered); Philips Business Systems, Inc., B-194477, April 9, 1980, 80-1 CPD 264 (telephone company rental charges were considered).  
\* \* \*

As we made clear in Philips and Lanier, supra, we believe the requirement to indicate the elements of life cycle cost that will be evaluated are applicable to procurements, such as this one, for dictating equipment which is listed on the FSS. The reason, as set forth in Lanier, is that vendors, once they know how offers will be evaluated, can assess the impact of that evaluation on their equipment and FSS prices and, to enhance their competitive position, can offer a more advantageous trade-in allowance to the Government and in some cases may be able to vary the equipment they would propose to meet the agency's needs. Here, since the RFQ did not adequately advise quoters of the basis and procedures for cost evaluation, we find that no award could have properly resulted from this RFQ. Accordingly, we have no basis to object to the VA's resolicitation of its new requirements.

The protest is denied.

*Milton J. Aorstar*

Acting Comptroller General  
of the United States